

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-MD-3076-MOORE/Otazo-Reyes

In RE

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**DEFENDANTS ARMANINO LLP AND PRAGER METIS CPAS, LLC'S
OPPOSITION TO PLAINTIFFS' CROSS-MOTION TO STAY
AND JOINDER IN INVESTOR DEFENDANTS' OPPOSITION**

Defendants Armanino LLP and Prager Metis CPAs, LLC join the Investor Defendants' Opposition [ECF No. 319] to Plaintiffs' Cross-Motion to Stay [ECF No. 317]. Armanino and Prager Metis write separately to highlight two key factors weighing against Plaintiffs' request to stay this entire civil action.

First, there is no reason to delay resolution of Armanino and Prager Metis's Joint Motion to Dismiss [ECF No. 281] during jurisdictional discovery because neither Armanino nor Prager Metis filed jurisdictional objections. Thus, Plaintiffs' argument concerning their need for jurisdictional discovery does not apply to Armanino and Prager Metis's Joint Motion. *See* Cross-Mot.; Reply [ECF No. 320] at 1–2.¹

Second, Plaintiffs' Reply states that they met with “all MDL Defendants in a good faith effort to resolve the issues raised in the Cross-Motion.” That is simply inaccurate. Plaintiffs' counsel never attempted to confer with Armanino or Prager Metis about their request to stay the case before filing the Cross-Motion. A certification of conferral is therefore conspicuously absent

¹ Plaintiffs filed a Reply in support of their Cross-Motion approximately 10 days before Defendants' Oppositions were due.

from the Cross-Motion. *See generally* Cross-Mot.; *see also* S.D. Fla. L.R. 7.1(a)(3) (subject to exceptions not applicable here, counsel for a movant must confer in good faith “[p]rior to filing any motion in a civil case”). That alone is grounds for denial of the Cross-Motion. *See, e.g., Burleigh House Condo., Inc. v. Rockhill Ins. Co.*, 2022 WL 17082909, at *6 (S.D. Fla. Nov. 18, 2022) (“[Failure to confer] justifies an Order denying the motion, as the Eleventh Circuit has affirmed that failure to comply with Local Rule conferral requirements is an independently sufficient basis to deny a motion.”) (citing *J.B. Hunt Transp., Inc. v. S & D Transp., Inc.*, 589 F. App’x 930, 933 (11th Cir. 2014)).

Moreover, Plaintiffs erroneously state that the MDL Defendants (including Armanino and Prager Metis) “have agreed . . . that an extension of the briefing schedule on the pending Motions to Dismiss is warranted.” Reply at 4 (emphasis omitted). Armanino and Prager Metis agreed to extend the briefing schedule on their Motion to Dismiss as a professional courtesy. Armanino and Prager Metis’s courtesy is now being improperly repurposed by Plaintiffs to try to buy time to advocate for a stay of the entire case. The Court should not countenance this effort, as an extension of the briefing schedule does not support Plaintiffs’ request to stay the entire case. Rather, as set forth above, the Court may resolve Armanino and Prager Metis’s Joint Motion to Dismiss notwithstanding the current discovery stay.

CONCLUSION

For the reasons stated above, and those in the Investor Defendants’ Response, Armanino and Prager Metis respectfully request that the Court deny Co-Lead Counsel’s Cross-Motion to Stay [ECF No. 317].

Dated: October 3, 2023

Respectfully submitted,

/s/ Ian M. Ross

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 3, 2023, I filed a true and correct copy with the Clerk of Court via CM/ECF, which will send notice of the same to all counsel and parties of record.

/s/ Tom K. Schulte
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